

## Senator Mazie K. Hirono

*Questions for the Record following hearing on May 2, 2017 entitled:*

*“Responses to the Increase in Religious Hate Crimes”*

### **Statements Regarding Minority Groups**

*For all witnesses:*

1. We now have a President who is seemingly at ease with demonizing huge swaths of Americans including Muslims, immigrants, and people of color.
  - a. When our leaders use this type of rhetoric does it have the effect of emboldening people to commit crimes?

During the 2016 election cycle, some candidates repeatedly used hateful rhetoric and demonized historically marginalized and vulnerable communities, further deepening existing divisions within our country along racial, religious, and ethnic lines. In addition to official comments, policies singling out protected groups can normalize hate and legitimize hate-motivated violence directed at Muslims or people perceived to be Muslim, Jews, people of color, immigrants, refugees, the LGBTQ community, and people with disabilities across the United States.

The Southern Poverty Law Center found 867 bias-related incidents in the 10 days following the presidential election.<sup>1</sup> That number has since increased to 1,372 documented bias related-incidents since the November election.<sup>2</sup> They include: multiple reports of Black children being told to ride in the back of school buses; the words “Trump Nation” and “Whites Only” being painted on a church with a large immigrant population; and a gay man being pulled from his car and beaten by an assailant who said the “president says we can kill all you faggots now.”<sup>3</sup> In our view, these incidents demonstrate that there are people who have felt emboldened to commit hate crimes given the rhetoric used by the President and others leaders.

2. In addition to the more overt threats being investigated as hate crimes, Muslims in Hawaii have reported smaller expressions of hate such as men yelling at women in hijab, telling them to go back to their country. I’ve heard heartbreaking stories of Muslim children asking their parents if they can change their names to something “American.” These types of actions make for a less welcoming atmosphere in our communities.
  - a. How do we prevent these types of actions from becoming “normal” in our communities? **Should these actions be investigated as hate crimes?**

While we must ensure individuals are able to enjoy the free exercise of religion and feel safe in their communities, we must also protect the constitutional right to free speech. Eliminating prejudice in the United States will require that Americans develop respect for cultural differences and establish dialogue across racial, ethnic, cultural, and religious boundaries. Education, awareness, and acceptance of group

differences are the cornerstones of a long-term solution to prejudice, discrimination, and bigotry in this country. Schools should implement cultural awareness and diversity programs to educate students and parents about the importance of respecting differences.

Meanwhile, hate crime laws and other effective responses to hate violence by public officials and law enforcement authorities can play an essential role in deterring and preventing some of the most heinous crimes against individuals from marginalized communities.

### **Recent Increases in Religious-Based Hate Crimes**

*Ms. Gupta:*

1. The FBI reported that hate crimes targeting Muslims increased by 67% in 2015. This is very disturbing and a very serious problem.
  - a. Based on your experience, what specifically can the Department of Justice do to address hate crimes targeting American Muslims?

The Department of Justice (DOJ) should prioritize the enforcement of civil rights statutes that promote religious freedom and combat religious discrimination in education and protect the rights of religious communities to build places of worship. The DOJ should also continue the online and in person trainings for law enforcement officers and members of the public to help them better identify and respond to hate crimes in their communities. It is critical that the Department of Justice continue robust engagement with vulnerable communities around the country in partnership with U.S. Attorney offices and local community-based and faith-based organizations. Senior officials at the Department must use the bully pulpit to speak out against acts of hate violence.

Data collection and reporting needs to include more granular information on specific populations that are being targeted and attacked, like American Muslims. Department of Justice funds should only be made available to agencies that are demonstrating participation in the Hate Crimes Statistics Act (HCSA) program. Currently, state and local law enforcement are encouraged—but not required by law—to provide information on hate crimes to federal authorities. The DOJ can also support training on hate crime data collection and reporting for state and local law enforcement officers.

### **Training and Tools**

*Ms. Gupta:*

1. As a former prosecutor, what kind of training and tools would you recommend for law enforcement and prosecutors to identify bias crimes?

Online and in person trainings for law enforcement officers can help them better identify and respond to hate crimes in their communities. In 2015, the Civil Rights Division of the Department of Justice launched a special initiative with law enforcement in five target states—Mississippi, California, Oregon, Kansas and Florida. These regional sessions involved intensive trainings designed to enhance state and local law enforcement’s ability to recognize, investigate, prove, and encourage better reporting and the

collection of accurate data on hate crimes, as well as to help them educate and engage the public in combating hate crimes. The trainings were conducted by the FBI and prosecutors from the Civil Rights Division and U.S. Attorneys' offices, and included state and local law enforcement as well as community- and faith-based organizations which are often the first point of contact for victims. These trainings can be critical to police officers' ability to effectively identify and investigate these crimes.

## **Investigation and Prosecution of Hate Crimes**

*Ms. Gupta:*

1. I understand that it can be challenging to meet the hate crimes standard under the federal hate crimes statute, but from your experience as former head of the Civil Rights Division,
  - a. Why is it important that the Department of Justice continue to pursue federal hate crimes charges?

Hate crimes laws demonstrate to all citizens that violence against anyone because of blind and vicious hatred will never be tolerated in this country. Broad coalitions of individuals—including law enforcement—agree that these laws serve important deterrent effects. Without them, and without congressional oversight and rigorous enforcement of these federal and state hate crimes statutes, isolated incidents of hate, bigotry, and prejudice could spread into an epidemic. The DOJ has an important role to play not only in prosecuting hate crimes, but using the bully pulpit to speak out against hate and encourage communities to embrace diversity and respect their neighbors.

- b. What type of effect do these prosecutions have on impacted communities?

For the communities specifically protected, enforcement of these laws is often a matter of life and death and represents the government's commitment to protecting *all* its citizens. Every individual in this country – no matter their race, color, religion, gender, gender identity, sexual orientation, disability status, or national origin – deserves to feel safe, welcome, and assured that such acts will not be tolerated or normalized, and that the government will protect them.

## **Consent Decrees**

*Mr. Treene, Ms. Gupta, and Mr. Johnson:*

1. Recently, Attorney General Jeff Sessions ordered a review of consent decrees around the country with the possibility of rolling them back.
  - a. What effect do you believe rolling back consent decrees would have on community relations with police in those communities?

DOJ consent decrees with police departments result from in-depth investigations that find serious patterns of unconstitutional policing that have broken police-community trust. When cooperatively negotiated, as

is most often the case, the adoption and enforcement of a consent decree demonstrates to community members that the city and police department in question are sincerely committed to addressing patterns of unconstitutional policing within their department. Furthermore, many law enforcement leaders have spoken publicly about how consent decrees have been an important vehicle for systemic reform and rebuilding community-police trust where it has eroded. At the House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations hearing this week, the Chief of the Houston Police Department, Art Acevedo, testified that:

One of the ways that departments around the nation have restored a community's trust is through the Department of Justice (DOJ) consent decrees. Consent decrees allow community stakeholders to ensure that police departments are held accountable. They require police departments to make changes, such as their response to resistance, conducting thorough internal investigations, and conducting fair and transparent investigations of police-involved shootings. The DOJ consent decrees push police departments to become more engaged by increasing community involvement and buy-in. While an investigation by the DOJ is difficult to accept at times, it pushes law enforcement to make changes that are required.

Just as importantly, consent decrees help law enforcement executives by forcing city leaders to provide funding that would otherwise not be available for critical expenditures. Consent decrees have pushed city leaders to provide critical funding for various types of training, such as de-escalation training, mental health critical incident training, and other constitutional policing topics. Consent decrees have also forced cities to provide needed funding for critical Information Technology (IT) needs, such as Records Management Systems (RMS), Response to Resistance databases, Body Worn Cameras, and other critical needs that are essential to a police agency and the community they serve<sup>4</sup>

At that same hearing, titled "Challenges Facing Law Enforcement in the 21st Century," the Sheriff of the Los Angeles County Sheriff's Department, Jim McDonnell, similarly described consent decrees as "a vehicle for positive change."<sup>5</sup>

Consent decrees are the result of lengthy investigations that find patterns of unconstitutional policing. The investigation and consent decree enforcement process helps lay a foundation of cooperation and trust, which is a key component of increasing public safety, and they are often welcomed by local law enforcement. They often focus a city into providing greater resources and structures to support community-police trust.

DOJ cannot unilaterally end a consent decree. Once a consent decree has been entered by a federal district court, only the district court can terminate it. However, DOJ can pull out of serious enforcement of a consent decree or, in the case of the Chicago Police Department, it can decide not to enter one and ignore the very serious findings that were publicly announced in January 2017. Were DOJ to refuse to adequately enforce consent decrees that were already negotiated and agreed upon by local jurisdictions, it would pull the rug from out under police departments who are relying upon federal assistance and support to address unconstitutional policing. It would also send a signal to the American public that the federal government is no longer committed to its promise to protect the public from patterns of police misconduct. Finally, it would threaten to reverse the important gains that many communities have already made in improving community relations with police.

- b. Could this result in less reporting, investigating, or prosecuting of hate crimes in those communities?

Rolling back consent decrees could have a negative, ripple effect on all law enforcement activities within that community. Rollbacks threaten to erode community trust and confidence that the federal government and local law enforcement are committed to addressing department-wide discrimination. Without trust that law enforcement will protect and treat everyone equally, members of the community might avoid reporting hate incidents. They might feel like they cannot turn to their local police when a hate incident occurs. Without the assistance of community members, law enforcement will be severely restricted in their ability to identify, collect information regarding, and respond appropriately to hate incidents. It is certainly possible, if not likely, that rolling back consent decrees will have an impact on reporting of hate incidents in communities of color, especially those communities that have strained relationships with law enforcement.

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<sup>1</sup> See “Ten Days After: Harassment and Intimidation in the Aftermath of the Election.” *Southern Poverty Law Center*. Nov. 29, 2016. <https://www.splcenter.org/2016/11/29/ten-days-after-harassment-and-intimidation-aftermath-election>.

<sup>2</sup> See “Post-Election Bias Incidents Up To 1,372; New Collaboration with ProPublica.” *Southern Poverty Law Center*. Feb. 10, 2017. <https://www.splcenter.org/hatewatch/2017/02/10/post-election-bias-incidents-1372-new-collaboration-propublica>.

<sup>3</sup> See “New SPLC reports reveal alarming pattern of hate incidents and bullying across country since election.” *Southern Poverty Law Center*. Nov. 29, 2016. <https://www.splcenter.org/news/2016/11/29/new-splc-reports-reveal-alarming-pattern-hate-incidents-and-bullying-across-country>.

<sup>4</sup> Acevedo, Art. “Written Testimony on Challenges Facing Law Enforcement in the 21st Century.” *House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations*. May 17, 2017. P. 2. <https://judiciary.house.gov/wp-content/uploads/2017/05/Art-Acevedo-Subcommittee-Testimony-FINAL.pdf>.

<sup>5</sup> McDonnell, Jim. “Challenges Facing Law Enforcement in the 21st Century.” *House Subcommittee on Crime, Terrorism, Homeland Security, and Investigations*. May 17, 2017. Video at 1:55:16. <https://judiciary.house.gov/hearing/challenges-facing-law-enforcement-21st-century/>.